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Journalism

Tug of war over FOIA

House subcommittee hearings on freedom of information hear journalists, actor Asner, others applaud it and resist efforts to limit act, action sought by government officials

Broadcast journalists joined a host of other newsmen and representatives of the public, including actor Ed Asner, in urging Congress last week not to weaken the Freedom of Information Act. At the same time, Reagan administration officials testified that the law inhibits law enforcement, threatens national security and is being misused by private businesses who use it to learn competitors' trade secrets.

Passed in 1966 and amended in 1974, the FOIA allows citizens to examine internal government agency documents as long as their dissemination would not harm national security or an ongoing investigation. Some 60 proposals to amend the law, many of them limiting present access to agency documents, have been introduced in Congress this year.

Representative Glenn English (D-Okla.), chairman of the Government Information and Individual Rights Subcommittee, said he does not anticipate changing the law's basic principle of free and open government, but believes Congress needs to fine tune the act. He and other Democratic members of his subcommittee, which held hearings on the issue last Tuesday, Wednesday and Thursday, appeared to favor expanding public access under the FOIA, rather than limiting it.

Senator Orrin G. Hatch (R-Utah), chairman of the Senate Judiciary Subcommittee on the Constitution, said the FOIA "holds the government accountable to an informed electorate," but must "itself be held accountable." His subcommittee held oversight hearings on the FOIA last Wednesday and plans hearings this week and in September on three bills that would limit the law.

Those bills (S. 587, S. 1235 and S. 1247) would exempt the Central Intelligence Agency from any application of the FOIA, put a 10-year moratorium on the release of FBI documents, allow agencies more time before having to comply with FOIA requests and allow businesses to secure injunctive relief against FOIA disclosure of information a company considers sensitive or confidential.

Those who would limit the law argue that it harms FBI and CIA activities by making it harder for those agencies to secure information from informers who are afraid of being publicly identified in a document released under FOIA. Syndicated commentator Jack Anderson, who spoke on behalf of the Mutual Broadcasting System, said the CIA and FBI have publicly admitted they face only a "perception" by potential informants that they'll lose their cover and that the FOIA has never resulted in an agent or informant actually being compromised. "I'd urge them to try and change that perception," he said, "not the public's right to information."

Other detractors argued that reporters and private citizens are the act's most infrequent users and file only 5% to 7% of FOIA requests for documents each year. Bob Schieffer, CBS News national correspondent, said such estimates are invalid

because reporters do not always identify themselves as such when filing an FOIA request because they don't want to reveal "sources and newsgathering techniques to competitors." He and others argued that the mere existence of the FOIA has made agencies more willing to divulge information and so the law's effectiveness cannot be measured by the number of requests filed.

Jack Landau, director of the Reporters Committee for Freedom of the Press, told the subcommittee that the FOIA Service Center, a project conducted jointly by his group and SDX, had answered 200 inquiries from reporters on how to use FOIA laws in the center's first year of existence. In its second year, it received more than 400 requests and expects more than 600 this year.

Asner told the subcommittee the FOIA is the "only tool enabling the public to take the initiative in finding out what the government is doing or has done." Citizens "don't have to wait for a congressman or reporter" to take an interest in an issue, he said, but can use the FOIA to get information themselves. "We will not let you rip this tool from our hands," he said.

The most frequent users of the FOIA, according to many who testified, are businesses who use it to obtain information about competitors. Asked if the press should be given preference over businesses and private individuals who want to use the law, Schieffer said no, that reporters should not be given special treatment. Landau, however, argued that FOIA requests made by reporters and individuals should be given preference over business requests because the latter are not in the general public interest.